

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In re COINSTAR, INC., Securities and  
Derivative Litigation

CASE NO. C11-133 MJP

ORDER CONSOLIDATING AND  
JOINING DERIVATIVE ACTIONS

MARTA/ATU LOCAL 732  
EMPLOYEES RETIREMENT PLAN  
Derivatively on Behalf of COINSTAR,  
INC., a Delaware corporation, Plaintiff

CASE NO. C11-663 MJP

v.

ARIK A. AHITOV, et. al., Defendants

MELVIN BRENNER, Derivatively on  
Behalf of COINSTAR, INC., a Delaware  
corporation, Plaintiff,

CASE NO. C11-655 MJP

v.

DEBORAH L. BEVIER, et al.,  
Defendants

This comes before the Court on a stipulated motion consolidating actions, transferring actions, and continuing pending motions. (Brenner v. Bevier, C11-655, Dkt. No. 18.) Having determined that MARTA/ATU Local 732 Employees Retirement Plan v. Arik A. Ahitov (C11-663 MJP) and Brenner v. Bevier (C11-655 MJP) are substantially related to In re Coinstar Securities Litigation (C11-133 MJP), the Court GRANTS the stipulation and ORDERS that the actions be joined for pre-trial proceedings.

### Discussion

Under Fed. R. Civ. P. 42(a), this Court can consolidate cases that “involve a common question of law or fact.” A district court may consolidate actions as part of its broad discretion to manage its caseload. In re Adams Apple, 829 F.2d 1484, 1487 (9th Cir. 1987); see also Devlin v. Transportation Communs. Int’l Union, 175 F.3d 121, 130 (2d. Cir. 1999).

First, the Court consolidates MARTA/ATU Local 732 v. Ahitov and Brenner v. Bevier as related shareholder derivative actions on behalf of nominal defendant Coinstar, Inc. (“Coinstar”). Both actions implicate common questions of law and fact. See also 8 Moore’s Federal Practice § 42.14[2] (“consolidation is common in federal securities actions . . .”)(collecting cases). Hereinafter, the actions will be referred to as the “Derivative Litigation” and every pleading filed in this consolidated action shall bear the following caption:

IN RE COINSTAR, INC., SHAREHOLDER DERIVATIVE LITIGATION	NO. C11-133 MJP  LEAD CASE NO. C11-133 MJP
---	--

1 Second, the Court joins the Derivative Litigation to In re Coinstar Securities Litigation  
2 (C11-133 MJP) (“the Securities Litigation”) for pre-trial proceedings. Both the Derivative  
3 Litigation and the Securities Litigation challenge Defendants’ representations or material  
4 omissions regarding its management of Redbox Automated Retail LLC (“Redbox”). Both  
5 Derivative Plaintiffs and Securities Plaintiffs allege Defendants failed to accurately represent  
6 negative factors affecting Redbox’s business, including the DVD retail industry’s shift to  
7 releasing titles 28 days after the studio has begun its own distribution. (See, e.g., Packer Compl.  
8 ¶ 3; Wilkerson Compl. ¶¶2-3). There are common questions of fact as to whether the statements  
9 were misleading. The Court therefore finds that coordination of both litigations serve judicial  
10 efficiency.

### 11 Conclusion

12 The Court CONSOLIDATES MARTA/ATU v. Ahitov and Brenner v. Bevier and will  
13 refer to the actions as the Derivative Litigation. The Court JOINS the Derivative Litigation with  
14 the Securities Litigation for pre-trial proceedings. Counsel in all cases must arrange to receive  
15 all filings in C11-133 MJP through the Electronic Case Filing system.

16 The Court STRIKES the pending motion for appointment of lead plaintiff or lead counsel  
17 in the Derivative Litigation.

18 The Court ORDERS all parties from the Securities Litigation and Derivative Litigation to  
19 meet and confer and submit an amended Joint Status Report within fifteen (15) days of entry of  
20 this Order. The Joint Status Report should address protocols regarding electronic discovery,  
21 protective orders, and propose streamlined deadlines regarding any motions to dismiss.

22 \\  
23 \\  
24

1 The clerk is ordered to provide copies of this order to all counsel.

2 Dated this 25th day of May, 2011.

3  
4 

5 Marsha J. Pechman  
6 United States District Judge  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24